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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/473,277	12/28/1999	HIROSHI KOIKE	500-38037XOO	9791

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EXAMINER	
WORJLOH, JALATEE	
ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/473,277	KOIKE ET AL.	
	Examiner	Art Unit	
	Jalatee Worjloh	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22,24,26,29 and 32-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *33 and 34* is/are allowed.

6)☒ Claim(s) *22,24,26,29 and 32* is/are rejected.

7)☒ Claim(s) *24* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office Action is responsive to the amendment filed on December 10, 2004, in which claims 22, 24, 26, 29 and 32 were amended and claims 33 and 34 added.

Response to Arguments

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claim 24 is objected to because of the following informalities: typographical error, change "aid content" to "said content" (see lines 11 & 12). Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 22, 26, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application 0809221 to Poggio et al. in view of US Patent No. 5689081 to Tsurumi.

Referring to claims 22, 29 and 32, Poggio et al. disclose selecting, by said vending device (i.e. virtual vending machine), digital contents desired by a user in response to user input, said vending device corresponding to a store included in a plurality of stores selling said digital contents (see col. 5, lines 28-32), generating, by said vending device, a request for distribution of said selected digital content and sending said request to said content database center (i.e. vendor administration interface), see col. 6, lines 2- 9, and selling, by said vending device, at said store, said selected a digital content to said user from said distributed selected digital contents (see col. 2, lines 32-36;col. 6, lines 20-24). Poggio et al. do not expressly disclose the method wherein said selected digital contents is not saved in said store, in response to request for distribution of selected digital content from said vending devices, generating, by said content database center, a distribution schedule for controlling distribution of said digital contents to said stores, or instructing, by said content database center, distribution of said selected digital contents to each of said store according to said distribution schedule. Tsurumi discloses the method wherein said selected digital contents is not saved in said store and in response to request for distribution of selected digital content from said vending devices (i.e. "karaoke terminal"), generating, by said content database center (i.e. "center station"), a distribution schedule for controlling distribution of said digital contents to said stores, instructing, by said content database center, distribution of said selected digital contents to each of said store according to said distribution schedule (see col. 2, lines 66,67; col. 3, lines 65-67; col. 4, lines 1-7; claim 1). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Poggio et al. to include the step of generating, by said content database center, a distribution schedule for controlling distribution of said digital contents to said stores, instructing, by said

content database center, distribution of said selected digital contents to each of said store according to said distribution schedule. One of ordinary skill in the art would have been motivated to do this because it effectively organizes the transfer of digital data.

Referring to claim 26, Poggio et al. disclose a sales section (i.e. virtual vending machine) for selling, at each of said stores, a particular digital content selected by a customer form said distributed selected digital contents (see col. 2, lines 32-36; col. 6, lines 20-24) and a distribution control section (i.e. virtual administration interface) for selecting digital contents, in response to requests, from stores selling said digital contents, for distribution of digital contents selected by a user at a vending device according to user inputs (see col. 5, lines 28-32; col. 6, lines 1-9). Poggio et al. do not expressly disclose wherein said selected digital contents is not saved in said store, generating, in response to request, a distribution schedule for controlling distribution of said selected digital contents to said stores, instructing, distribution of said selected digital contents to each of said store according to said distribution schedule. Tsurumi said selected digital contents is not saved in said store, generating, in response to request, a distribution schedule for controlling distribution of said selected digital contents to said stores, instructing, distribution of said selected digital contents to each of said store according to said distribution schedule (see col. 2, lines 66,67; col. 3, lines 65-67; col. 4, lines 1-7; claim 1). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Poggio et al. to said selected digital contents is not saved in said store, generating, in response to request, a distribution schedule for controlling distribution of said selected digital contents to said stores, instructing, distribution of said selected digital contents to

each of said store according to said distribution schedule. One of ordinary skill in the art would have been motivated to do this because it effectively organizes the transfer of digital data.

6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poggio et al. and Tsurumi as applied to claim 22 above, and further in view of US Patent NO. 5943422 to Van Wie et al.

Poggio et al. disclose selling at each of said stores, a particular digital content selected by a customer from said distributed digital contents (see claim 22 above). Poggio et al. do not expressly disclose generating, by digitizing device, a digital content by digitizing an original content and transmitting, from said digitizing device to a recognition device, a request for confirmation of content of said digital content, executing, by said recognition device, in response to said request confirmation of said content of said digital content by determining whether said content of said digital content has been generated with error and transmitting, by said recognition device, a message indicating whether said content is recognized based on said determination, and receiving, by said digitizing device, said message and accumulating said content of said digital content if said digital content if said content of said digital content has been recognized. Van Wie et al. disclose generating, by a digitizing device, a digital content by digitizing an original content and determining whether said content of said digital content has been generated without error (see col. 11, lines 3-5; col. 39, liens 14-22) and receiving, by said digitizing device, said message and accumulating said content of said digital content if said content of said content has been recognized (see col. 39, lines 31-33). As per the step of transmitting, from said digitalizing device a recognition device, a request for confirmation of content of said digital content and

transmitting by said recognition device, a message indicating whether said content is to be recognized by on said determination, these are inherent steps. Before determining whether said content of said digital content has been generated without error, a request must have been received. Also, the process of submitting a message after the determining step is a conventional process; that is, when a confirmation request is received a response is required. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Poggio et al. to include the steps of generating, by digitizing device, a digital content by digitizing an original content and transmitting, from said digitizing device to a recognition device, a request for confirmation of content of said digital content, executing, by said recognition device, in response to said request confirmation of said content of said digital content by determining whether said content of said digital content has been generated with error and transmitting, by said recognition device, a message indicating whether said content is recognized based on said determination, and receiving, by said digitizing device, said message and accumulating said content of said digital content if said digital content if said content of said digital content has been recognized. One of ordinary skill in the art would have been motivated to do this because it effectively organizes the transfer of digital data.

Allowable Subject Matter

7. Claims 33 and 34 allowed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US Patent No. 6385596 to Wiser et al. disclose a secure online music distribution system.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jalatee Worjloh whose telephone number is 703-305-0057. The examiner can normally be reached on Mondays-Thursdays 8:30 - 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for Regular/After Final Actions and 703-746-9443 for Non-Official/Draft.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
PO Box 1450
Alexandria, VA 22313-1450

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, V.A., Seventh floor receptionist.

Jalatee Worjloh
Patent Examiner
Art Unit 3621

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February 24, 2005

JOHN W. HAYES
PRIMARY EXAMINER